

AMENDED IN ASSEMBLY MAY 5, 2015

AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1397

Introduced by Assembly Member Ting
(Coauthor: Assembly Member Santiago)
(Coauthor: Senator Hall)

February 27, 2015

An act to add Article 8 (commencing with Section 72800) to Chapter 6 of Part 45 of Division 7 of Title 3 of the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

AB 1397, as amended, Ting. Community colleges: California Community Colleges Fair Accreditation Act of 2015.

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law specifies the duties of the board of governors, including, among other duties, establishing minimum standards for the formation of community colleges and districts. Under existing regulatory authority, the board of governors requires each community college to be accredited. Existing law requires the accrediting agency for the community colleges to report to the appropriate policy and budget subcommittees of the Legislature upon the issuance of a decision that affects the accreditation status of a community college and to report, on a biannual basis, any accreditation

policy changes that affect the accreditation process or status for a community college.

This bill would enact the California Community Colleges Fair Accreditation Act of 2015. The act would require that ~~at least 50%~~ *an appropriate percentage* of each visiting accreditation team from the accrediting agency for the California Community Colleges be composed of academics, as defined. The bill would prohibit persons with ~~a conflict~~ *conflicts* of interest, as defined, from serving on a visiting accreditation team.

The bill would require the accrediting agency to conduct the meetings of its decisionmaking body to ensure the ability of members of the public to attend those meetings. The bill would require the accrediting agency to preserve all documents generated during an accreditation-related review, as specified. The bill would require the agency's accreditation-related decisions to be based on written, published standards in accordance with state and federal statutes and regulations, as specified.

The bill would authorize an institution to ~~file~~ *submit* an appeal of a decision by the accrediting agency. ~~The bill would provide that the appeal would be heard by a panel appointed by the Chancellor of the California Community Colleges.~~ *agency to subject that institution to a sanction of probation or a more serious sanction.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 8 (commencing with Section 72800) is
2 added to Chapter 6 of Part 45 of Division 7 of Title 3 of the
3 Education Code, to read:

4
5 Article 8. Accreditation
6

7 72800. (a) ~~(1) This section~~ *This article* shall be known, and
8 may be cited, as the California Community Colleges Fair
9 Accreditation Act of 2015.

10 (b) *The Legislature finds and declares all of the following:*

11 (1) *The goal of accreditation is to promote and ensure higher*
12 *education quality through peer evaluation and review.*

1 (2) *The community college accrediting agency should be a*
2 *nonprofit, private educational association of regional scope,*
3 *responsible for developing evaluation criteria, conducting peer*
4 *evaluations, assessing whether criteria are met, and supporting*
5 *institutional development and improvement.*

6 (3) *The community college accrediting agency should have a*
7 *comprehensive and nondiscriminatory accreditation process that*
8 *is in compliance with the requirements of applicable federal and*
9 *state laws and regulations.*

10 (c) *This article shall apply only to accrediting procedures*
11 *regarding institutions located in California.*

12 ~~(2)~~

13 72801. (a) As used in this article:

14 ~~(A)~~

15 (1) “Academic” means a person who is currently, or has recently,
16 directly engaged in a significant manner in postsecondary teaching
17 or research.

18 ~~(B)~~

19 (2) “Agency” means the accrediting agency for the California
20 Community Colleges.

21 ~~(C)~~

22 (3) “Near relative” means a spouse, including a registered
23 domestic partner, child, parent, sibling, person in an in-law
24 relationship, or a step relative in one of the relationships referenced
25 in this subparagraph.

26 (b) *The agency shall operate only by policies that are in*
27 *compliance with the federal criteria for recognition of an*
28 *accrediting agency pursuant to Subpart 2 (commencing with*
29 *Section 496) of Part H of Title IV of the federal Higher Education*
30 *Act of 1965, as amended.*

31 ~~(b)~~

32 (c) (1) ~~No less than 50 percent of each~~ *Each* visiting
33 accreditation team sent out by the agency shall be composed of
34 *an appropriate percentage of academics.*

35 (2) *The agency shall establish and enforce procedures to ensure*
36 *that persons serving on visiting accreditation teams do not have*
37 *conflicts of interest.* No person may serve on a visiting accreditation
38 team who has a conflict of interest. For the purposes of this
39 paragraph, a conflict of interest is determined by any circumstance
40 in which an individual’s capacity to make an impartial or unbiased

1 accreditation recommendation may be ~~affected by~~ *affected*,
2 *including, but not necessarily limited to*, any of the following:

3 ~~(A) Prior, current, or anticipated affiliation with the institution~~
4 ~~under review.~~

5 ~~(B)~~

6 (A) Paid service in any capacity to the institution under review.

7 ~~(C)~~

8 (B) Serving as, or having a near relative serving as, a current
9 member, staff member or consultant of the agency's
10 decisionmaking body.

11 ~~(D)~~

12 (C) Serving as, or having a near relative serving as, a current
13 member, staff member or consultant of the institution's governing
14 body.

15 (3) A prospective member of a visiting accreditation team shall
16 submit an appropriate disclosure form to the agency, declaring
17 ~~under penalty of perjury~~ that he or she does not violate the visiting
18 team conflict-of-interest criteria in paragraph (2). Copies of these
19 forms shall be provided to the institution under review.

20 ~~(4) Every member of the agency's decisionmaking body and~~
21 ~~staff shall annually file a form that identifies all sources of earnings~~
22 ~~that derive from the field of education, or from entities that perform~~
23 ~~services for any community college located in California, or from~~
24 ~~organizations that engage in any lobbying or representational~~
25 ~~activities for California community colleges.~~

26 ~~(e)~~

27 (d) (1) The agency shall conduct its meetings so as to ensure
28 that those members of the public who desire to appear at *open*
29 *sessions of* agency meetings have an opportunity to attend those
30 *portions of the* meetings.

31 (2) A sufficient length of time shall be allowed for public
32 comment at agency meetings, and no agency action related to an
33 institution's accreditation shall be made prior to the decisionmaking
34 body's taking of public comment.

35 (3) The agency shall make an accreditation decision by a vote
36 of its decisionmaking ~~body in a public meeting. The vote of each~~
37 ~~member of the decisionmaking body body. The outcome of the~~
38 *vote* shall be recorded and posted to the agency's Internet Web
39 site. Minutes from *all open session portions of* the meetings of the

1 decisionmaking body of the agency shall be recorded and posted
2 to the agency's Internet Web site.

3 (4) Any officer or employee of the agency with an actual or
4 appearance of a conflict of interest shall be disqualified from
5 participating in discussion and voting. For the purposes of this
6 clause, a conflict of interest ~~shall be defined as any~~ *is defined as*
7 *any circumstance in which an individual's capacity to make an*
8 *impartial or unbiased recommendation or decision may be affected,*
9 *including by either of the following:*

10 ~~(A) Prior, current, or anticipated affiliation with the institution~~
11 ~~under review.~~

12 ~~(B)~~

13 (A) Paid service in any capacity to the institution under review.

14 ~~(C)~~

15 (B) Serving as, or having a near relative serving as, a current
16 member, staff member, or consultant of the institution's governing
17 body.

18 ~~(D)~~

19 (e) The agency shall preserve all documents generated during
20 an accreditation-related review, including, but not necessarily
21 limited to, email correspondence, for no less than 36 months after
22 the completion of an accreditation-related review. All reports,
23 evaluations, recommendations, and decision documents generated
24 during an accreditation-related review shall be retained indefinitely.

25 ~~(e) (1)~~

26 (f) The agency's accreditation-related decisions shall be based
27 on written, published standards, and shall be in accordance with,
28 and not be inconsistent with, state and federal statutes and
29 regulations.

30 ~~(2) The agency shall afford appropriate deference to the~~
31 ~~activities or operations of the institution under review that are~~
32 ~~consistent with the requirements of the state law.~~

33 ~~(f)~~

34 (g) No revision shall be made by the agency to a proposed
35 visiting accreditation team report unless the revision is shared with
36 the members of the visiting accreditation team and with the
37 institution under review, and each is afforded an opportunity to
38 comment on the revision.

39 ~~(g)~~

1 (h) (1) A community college or a community college district
2 shall be given advance notice of proposed visiting accreditation
3 team reports, so that the college or district may respond to correct
4 factual errors or dissent from conclusions. The institution under
5 review shall be afforded adequate time to review the reports before
6 a meeting of the agency's decisionmaking body at which a decision
7 relating to the institution's accreditation is to be made, which shall
8 be no less than six weeks before the meeting. The institution under
9 review may respond to these reports in writing, orally at the
10 meeting, or in both of those ways.

11 (2) Any visiting accrediting team recommendation for action
12 shall be shared with the institution under review at least six weeks
13 before a meeting of the agency's decisionmaking body, so that the
14 institution may decide whether and how to respond to the
15 recommendation. Any recommendation for action made to the
16 agency's decisionmaking body by a person employed by or
17 representing the agency, including its staff, agents, and employees,
18 shall be shared with the institution subject to the recommendation
19 at least six weeks before a meeting of the agency's decisionmaking
20 body relating to the recommendation.

21 ~~(h)~~

22 (i) (1) The agency shall have a written policy, consistent with
23 federal law, that does both of the following:

24 (A) Identifies a period for an institution to correct any
25 deficiencies that have prevented the institution from receiving full
26 accreditation.

27 (B) Provides criteria for altering that period.

28 (2) The policy adopted under paragraph (1) shall be published,
29 and shall provide a process through which an institution may
30 submit applications for an extension, even if a decision has
31 expressly denied such an extension. An application for an
32 extension, and the decision of the agency as to the application,
33 shall be made publicly available.

34 ~~(i)~~

35 (j) (1) Whenever the agency's decisionmaking body issues a
36 sanction of probation or a more serious sanction, the institution
37 subject to the sanction shall be given written notice of the alleged
38 sanctionable offenses or deficiencies. The institution shall be
39 afforded an opportunity to submit an appeal of the decision to issue

1 the sanction. ~~The burden of proof for the agency to issue the~~
2 ~~sanction shall rest with the agency.~~

3 ~~(j) An appeal pursuant to subdivision (i) shall be heard by a~~
4 ~~panel appointed by the chancellor. An institution filing an appeal~~
5 ~~has the right to file an application to present new or additional~~
6 ~~evidence to the panel. The panel shall, in its discretion, determine~~
7 ~~whether to accept the new or additional evidence.~~

8 *(2) A member of an appeal panel with an actual conflict of*
9 *interest, or the appearance of a conflict of interest, shall be*
10 *disqualified from participating in an appeal submitted pursuant*
11 *to paragraph (1). For purposes of this paragraph, a conflict of*
12 *interest shall be defined as any circumstance in which an*
13 *individual's capacity to make an impartial or unbiased*
14 *recommendation or decision may be affected, including by either*
15 *of the following:*

16 *(A) Paid service in any capacity to the institution under review.*

17 *(B) Serving as, or having a near relative serving as, a current*
18 *member, staff member, or consultant of the institution's governing*
19 *body.*

20 *(3) A prospective member of an appeal panel shall submit an*
21 *appropriate disclosure form to the agency, declaring that he or*
22 *she does not violate the conflict-of-interest criteria listed in*
23 *subparagraphs (A) and (B) of paragraph (2). Copies of these forms*
24 *shall be provided to the institution that is making the appeal.*